

S/N: 10/768,723

Atty Dkt No. GP-303333 / GM0420PUS

Remarks

Claims 1-13 and 15-20 are pending in this application. Claims 1, 8 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hoerster (US 6,276,228). Claim 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over Hoerster in view of Roper (US 5,372,026). Claims 10 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hoerster in view of Tonoe et al. (US 4,805,522). Claims 11, 12, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 2-7 and 15-18 are allowed.

Rejections under §102(b): Anticipation of Claims 1, 8 and 9 by Hoerster

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See MPEP §2131.

Claim 1 is amended to require:

a unitary sheet formed to at least partially define a vehicle cowl and a vehicle bulkhead, and wherein the unitary sheet is further configured to at least partially define a front compartment of the vehicle *with said cowl located between [a] hood and [a] dashboard.*
(emphasis added)

Paragraph [0003] of the Application makes clear that:

[a]s used herein, “cowl” refers to the vehicle panel or structure generally located between the hood and the windshield of a vehicle and transversely spanning the vehicle.

S/N: 10/768,723

Att. Dkt No. GP-303333 / GM0420PUS

The cowl 12 is presented in such a location in the embodiment of Figure 1, as is the cowl 12' in the embodiment of Figure 2. In both embodiments, the cowl is between a hood 46, 46', respectively, and a dashboard structure 26, 26', respectively. Thus, the amendment to claim 1 presents no new matter.

The substantially horizontal region 3 (Examiner-named cowl) of Hoerster's bulkhead/cowl panel assembly 1 is clearly configured for the lower region of a vehicle. A "bearing bracket 9 is fixed to the substantially horizontal region 3..." (Hoerster, col. 2, lines 35-36) and supports a pivot axle 7 on which is pivotally mounted a brake pedal 6. (Hoerster, col. 2, lines 28-29, 37-38). Hoerster's bulkhead/cowl subassembly 1 is located in the region of the driver's feet and legs, as evidenced by the attached brake pedal 6, and the purpose of withdrawing the pedals forwardly away from the region of the driver's feet and legs in the event the substantially vertical region of the bulkhead/cowl panel assembly is displaced to the rear. (See Hoerster, col. 1, lines 60-67.) Thus, Hoerster's horizontal region 3 is clearly not "located between [a] hood and [a] dashboard" as required by claim 1, nor is such a location suggested to one of ordinary skill in the art. For at least this reason, the rejection under Section 102(b) of claim 1, is overcome.

With respect to claim 8 and 9, both claims depend from claim 1, and are properly allowable for at least the same reasons that claim 1 is allowable. Additionally, Applicants respectfully disagree with the Examiner's finding that Hoerster's cowl 3 "comprises a structural cross beam (the confluence of 2 and 3 creates a cross beam)." (Office Action, page 3). First, claim 9 requires that "the cowl comprises a structural cross beam." Hoerster's cowl 3 is a flat surface and cannot form a beam. Thus, claim 9 is allowable for at least this reason as well.

Rejections under §103(a): Claim 19 over Hoerster in view of Roper

In rejecting claim 19 under 35 U.S.C. 103(a) as being unpatentable over Hoerster in view of Roper, the Examiner states:

S/N: 10/768,723

Atty Dkt No. GP-303333 / GM0420PUS

Hoerster discloses a method of manufacturing front structure for a vehicle, the method comprising forming a unitary panel, wherein the unitary panel at least partially defines a vehicle cowl and a vehicle bulkhead.

Claim 19 is amended to specify that the cowl is "configured for location between the hood and the dashboard." Claim 20 is amended accordingly. As discussed with respect to claim 1, Hoerster does not disclose a cowl configured for the location recited in claim 19. Accordingly, at least for this reason, the rejection of claim 19 is believed to be overcome.

Rejections under §103(a): Claims 10 and 13 over Hoerster in view of Tonoe et al.

In rejecting claims 10 and 13, the Examiner states:

Hoerster discloses all the limitation of the claims, as applied above, except for the cowl forming an intake plenum, wherein the cross beam is formed between the plenum and the vehicle bulkhead.
(Office Action, page 4)

A *prima facie* case of obviousness requires that the prior art references teach or suggest all claim limitations of the examined claim. (MPEP 2143.03) As discussed above with respect to claim 1, Hoerster does not disclose a "cowl located between [a] hood and [a] dashboard" as required by claim 1. With respect to claims 10 and 13, both claims ultimately depend from claim 1, and are allowable for at least the same reasons that claim 1 is allowable. Additionally, claim 10 depends from claim 9, and is allowable for at least the reasons discussed above with respect to claim 9.

Allowable Subject Matter: Objections to Claims 11, 12 and 20

Claims 11, 12 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 11 and 12 ultimately

S/N: 10/768,723

Atty Dkt No. GP-303333 / GM0420PUS


depend from claim 1, and are allowable for at least the same reasons that claim 1 is allowable. Claim 20 depends from claim 19 and is allowable at least for the same reasons that claim 19 is allowable.

Conclusion

The amendment to claims 1 and 19 as well as the remarks in support of the rejected claims are believed to place claims 1, 8-13 and 19-20 in condition for allowance along with allowed claims 2-7 and 15-18, which action is respectfully requested.

Respectfully submitted

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